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10/036,024	12/24/2001	Huang-Ming Pan	INMEP0102US	2439

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EXAMINER

DYKE, KERRI M

ART UNIT PAPER NUMBER

2667

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/036,024	<b>Applicant(s)</b> PAN, HUANG-MING	
	<b>Examiner</b> Kerri M. Dyke	<b>Art Unit</b> 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-16 have been canceled.
2. Claims 17-30 have been added.

### ***Response to Arguments***

3. Applicant's arguments, see page 6, filed 01/09/2006, with respect to the drawings have been fully considered and are persuasive. The objection of the drawings has been withdrawn.
4. Applicant's arguments, see page 6, filed 01/09/2006, with respect to claims 2, 6, 8, and 9 have been fully considered and are persuasive. The objection of claims 2, 6, 8, and 9 has been withdrawn.
5. Applicant's arguments, see page 7, filed 01/09/2006, with respect to claims 1-17 have been fully considered and are persuasive. The rejection of claims 1-17 has been withdrawn.
6. Applicant's arguments, see page 9, filed 01/09/2006 with respect to claims 17-30 have been fully considered. Applicant is correct that Ma does not teach the new limitation of transmitting the identity of the first proxy server to respond to an inquiry sent by the load server as the server for communication with the client. Therefore, a new ground of rejection is made in view of Trethewey.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 17-19, 21-28, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Trethewey (US 2003/0056002, previously cited).

9. In regards to claim 17, Trethewey discloses a Voice-over-Internet Protocol (VoIP) system for effecting a VoIP call initiated by a VoIP client, comprising:

- a. A plurality of VoIP proxy servers; and (figure 1 elements 35a-c and paragraph 12 disclose a plurality of servers capable of internet telephony)
- b. A load balancing proxy server configured to: (figure 1 element 25)
  - i. Receive a request from the VoIP client;
  - ii. Upon receipt of the request from the VoIP client, transmit a request to each of the plurality of VoIP proxy servers;
  - iii. Receive a response from a first one of the VoIP proxy servers to respond to the requests transmitted by the load balancing proxy server; and
  - iv. Transmit to the VoIP client an identity of the first one of the VoIP proxy servers to respond as the VoIP proxy server with which the VoIP client should communicate to complete establishment of the VoIP call.

Paragraph 23 discloses the load balancer receives a request from a client. The balancer uses conventional techniques to determine which server should service the client. A conventional technique is any technique known to those in the art. Denecheau et al. discloses sending a request to the servers, receiving a response from the first to respond and assigning the first to respond to service the client in column 1 lines 39-54. Therefore, the technique of assigning the client to the first server to respond is inherently a conventional technique and is disclosed by

Trethewey. Paragraph 24 discloses the balancer sends a message to the client containing the address of the server that is to service the client.

10. In regards to claim 18, Trethewey discloses the VoIP system of claim 17, wherein the request from the VoIP client is a request for the identity of the VoIP proxy server having the lowest workload among the plurality of VoIP proxy servers. Figure 2, step 50 discloses sending a probe request from the client to the balancer. VoIP is inherently a time sensitive application. This fact is also disclosed in paragraph 31. The server with the lowest load will provide the fastest service. A request for service from a VoIP client would therefore inherently include a request for the lowest loaded server because of the time sensitivity and quality of service issues associated with VoIP and the fact that the lowest loaded server is most likely to be able to satisfy the service requirements of the client.

11. In regards to claim 19, Trethewey discloses the VoIP system of claim 17, wherein the requests transmitted by the load balancing proxy server to the VoIP proxy servers are call requests. Paragraph 32 discloses that the load balancer receives call requests and a server is assigned according to the method in figure 2. Paragraph 32 further discloses that after the initial setup further VoIP traffic is automatically routed to the assigned server and does not re-enter the load balancer. Therefore, all requests transmitted by the load balancer are call requests.

12. In regards to claim 21, Trethewey discloses the VoIP system of claim 17, wherein the first one of the VoIP proxy servers to respond to the requests is assumed to have the lowest workload of the plurality of VoIP proxy servers.

13. In regards to claim 22, Trethewey discloses the VoIP system of claim 17, wherein the VoIP client, the VoIP proxy servers and the load balancing proxy server interface over a network

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that includes one or more of a proprietary network, a network of leased facilities, the Internet, and Intranet, a wide-area-network (WAN), a local-area network (LAN) and a virtual private network (VPN). Paragraph 12 explicitly mentions using the Internet. Paragraph 12 also mentions peer-to-peer services. Peer-to-peer services can be accomplished over any type of network, including all the ones listed in the claim. Paragraph 12 therefore implicitly discloses that a network can be any of the type listed.

14. In regards to claim 23, Trethewey discloses the VoIP system of claim 17, further comprising a gateway that controls VoIP client access to the load balancing proxy server and the VoIP proxy servers. Figure 1 elements 15a-b regulate the access of clients to the servers.

Paragraph 15 discloses that they are gateways.

15. In regards to claim 24, Trethewey discloses the VoIP system of claim 23, wherein the gateway is one or more of: a VoIP gateway, a VoIP PSTN gateway, a media gateway, a router, and an H.323 gateway. Paragraph 16 discloses that the gateway maybe a router. Paragraph 32 discloses a VoIP gateway. Paragraph 12 discloses several type of media that may be transmitted by the gateway meaning the gateway is inherently a media gateway.

16. Claim 25 is a method version of claim 17. It is therefore rejected upon the same grounds as claim 17.

17. Claim 26 is rejected upon the same grounds as claim 18.

18. Claim 27 is rejected upon the same grounds as claim 19.

19. In regards to claim 28, Trethewey discloses, the method of claim 25 further comprising, upon receipt of the identity of the VoIP proxy server with the VoIP client, the VoIP client communicating with the identified VoIP proxy server to establish the VoIP call. Paragraph 25

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discloses that the client uses the identity of the server to establish communication with the server.

Since the purpose of VoIP is a call it is inherent that the communication established with the server would include a VoIP call.

20. Claim 30 is rejected upon the same grounds as claim 21.

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trethewey (US 2003/0056002) in view of Fehskens et al. (US 5,345,587).

23. In regards to claim 20, Trethewey discloses the VoIP system of claim 17, but not wherein the load balancing proxy server is further configured to cancel the requests transmitted to the remaining VoIP proxy servers upon receipt of the response from the first one of the VoIP proxy servers to respond to the requests.

24. Fehskens discloses canceling additional requests in column 35 lines 61-64.

25. It would have been obvious to one of ordinary skill in the art to modify Trethewey's load balancing system in order to include the cancellation of additional requests after a reply has been received, as taught by Fehskens because additional replies would not be useful, taught by Fehskens in column 35 lines 65-68.

26. Claim 29 is rejected upon the same grounds as claim 20.

*Conclusion*


27. This action is NOT made final because new art, Fehskens, was applied to claims 20 and 29, which include limitations that were previously presented.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kerri M. Dyke whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Friday, 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kmd

  
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SUPERVISORY PATENT EXAMINER  
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2/3/06